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Res Gestae

Roger Marce, Editor

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-----THE LAWYERS CLUB OF THE UNIVERSITY OF MICHIGAN LAW SCHOOL-----
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JUSTICE SOURIS SPENDS THREE DAYS HERE AS "SCHOLAR IN RESIDENCE"

This week the Law School has had the rare pleasure of having on the quad a distinguished jurist. Justice Theodore Souris of the Michigan Supreme Court has spent three days with us, speaking on Wednesday and Thursday nights and holding informal seminars yesterday and today.

Justice Souris spoke Wednesday night on "Reappraisal of the Law--A Lawyer's Responsibility." He opened by discussing the lawyer's participation in public service. Advocating such participation in whatever form it offers itself, he also pointed out that the attorney should protect himself by providing himself with a backbone for a career in the profession.

The Justice then went into a discussion of four highly important problems facing the practitioner. The first of these was the Involvement of non-judicial bodies in the performance of judicial functions. He criticized the use of Congressional committees to punish persons without a trial by means of public exposure. His criticism of the operations of administrative and other quasi-judicial bodies was along other lines. Often, he noted, these bodies operate without giving parties an effective recourse to judicial review. Moreover, parties are often denied even the rudiments of due process of law. A minimum of due process is the very least that the people have a right to expect.

Justice Souris noted with disapproval the increasingly concentrated attack on the jury system. The very concept of the essentiality of the jury in civil cases is under heavy attack. If this attack succeeds, he stated, the next target, logically, is the use of the jury in criminal matters. Justice Souris offered certain alternatives to weakening the role of the jury which would strengthen its effectiveness. Greater care on the part of judges in the giving of instructions and in relating them to the facts would lead to more enlightened and quicker verdicts he stated. This would also induce lawyers to exert greater care in the drafting of submitted instructions. He opposed the use of form instructions which, he felt, would lead to mere rote reading of instructions without any attempt to effectively guide the jury. He also advocated the giving of instructions at the start of trial so that the jury would be familiar with the law relevant to the case while they were hearing the evidence. The use of special verdicts was advocated as a means of getting the jury's answer to specific factual issues. This tool would assist both the trial and appellate court in determining whether the verdict was consistent with the evidence and the jury's individual findings.

Speaking on the role of stare decisis, Justice Souris said that there is both a public and professional awareness that courts ought to be rooted in history. At the same time, courts need to be flexible. The court should look to the reasons behind the precedents to see if they are still valid. This analysis of precedent leads to decisions in line with contemporary concepts.

He concluded with remarks on the right to counsel of criminal defendants. This, he said, is the single most important problem confronting the legal profession. In a criminal trial, the total weight and power of the government is brought to bear on the individual. Every attorney has a duty to assist the criminal defendant in bringing the full force of the law to bear in confronting the government. The lawyer has a professional obligation to accept unpopular causes.

If these problems are given the skill and attention of the attorney, Souris concluded, he will not only benefit society, he will attain skill and prominence in the profession and open the door to public service.

On Thursday night, Justice Souris spoke on "The Right to Counsel." He opened with a discussion of the Gideon case which was a milestone in assuring the right of indigents to have counsel in all serious cases. He noted that Gideon's alleged offense was neither a capital offense nor a felony. Moreover, the Supreme Court has placed no arbitrary limitation on the scope of the Gideon rule, suggesting that it will be extended to include whatever justice requires. The right of the accused to be heard is worthless unless it is the right to be heard with aid of counsel both at trial and at all preparatory stages.

Michigan has long had the right to counsel guaranteed in its Constitution; and, since 1846, in its statutes. However, until relatively recently, this was not interpreted as requiring the appointment of counsel in indigent cases. However, better than

a decade before the U.S. Supreme Court so ruled, the right of indigents to have appointed counsel was granted by Michigan. In addition, the court must inform every defendant of his right to have counsel appointed for him if he cannot afford his own attorney.

A companion case of Gideon was Douglas v. California which ruled that the indigent must also have full access to counsel in his initial criminal appeal. Again, Michigan was years ahead of the U.S. Supreme Court. The rule in Michigan presently gives an absolute right to appeal if the sentence is a year or more. Formerly, the appeal had to be petitioned for within 20 days. However, this short period was found to be unduly harsh and has now been extended to 60 days. Moreover, the convicted defendant must be fully informed by the court of his automatic right to appeal through counsel.

The court has also adopted the policy of the federal courts in extending liberal treatment to home-drawn petitions, notably those coming from Jackson or Marquette. Many of these are procedurally, quite inadequate. On the other hand, the court has tended to be unresponsive to attempts by prosecutors to get these petitions dismissed for such errors. Justice Souris noted with disapproval, the attempts by many prosecutors to obstruct appeals by indigents. Not only does this take the form of extensive procedural attacks, it also may mean dilatory conduct on their part in producing trial transcripts and other papers needed by the court and the appellant.

In addition, Justice Souris attacked the attitude of many judges and their failure to respect the rights of the indigent defendant. In many cases, they have failed to properly acquaint an accused with his right to counsel. Often, this error has been compounded by the acceptance of a guilty plea when the defendant's qualification of his plea showed a clear need for a full trial. Moreover, the accused often has no awareness of the extent of the consequences of his plea. The judge, Souris stated, should be more than a mere referee. He should not act in such a manner as will weigh the scales in favor of the government, quite the contrary. The heart of our judicial system is equal justice to all.

FROM PROFESSOR R.V. WELLMAN: To 2nd and 3rd Year Students: The crowds in front of the Placement Office at 1 P.M. have all but disappeared. The typical sign-up sheet for interviewers now coming to the school is no longer being filled. I have no wish to get those persons who have narrowed their job hunting activities to start all over again. But, I imagine that there are students who have been staying away from the Placement Office on the assumption that their case would not appear strong in contrast to that of their classmates with stronger academic records. Such persons, and others who have delayed getting into the job hunting business, should be encouraged to look at the cards describing visiting firms and sign up to talk to any who appear interesting. More than 20 interview schedules are being prepared for next week. Moreover, many firms will be visiting us after next week and after Thanksgiving. The tendency for interviewers to be fussy about grades is less and less marked as the season grinds on. Take a look! Also, keep a sharper eye on the second floor bulletin board. Many offices ask us to put cards up so that students visiting their cities at Christmas will give them consideration. Most of these firms prefer to have resumes sent in advance. However, sometimes, this is not a must. Read and react!

AREA ATTORNEY SPEAKS ON CHRISTIAN ETHIC AND THE LAW: Mr. Harold A. Larson, a young general practitioner from Farmington, spoke at the Law Club Tuesday on the subject of "The Practical Implications of the Christian Ethic in the Practice of Law." Mr. Larson first established a philosophical and religious base for the system of ethics that he applies both in the practice of law and in all areas of his life; then followed with a number of personal illustrations that put his understanding of the Christian ethic to practical tests. He emphasized that he did not come as an expert either on spiritual or legal matters--but as one whose religious experience is real and whose struggle with the practice of law is real.

He contrasted the Christian ethic with the humanistic or moralistic view that man can reason to ethical conduct in law and in other areas of life. The former has a more absolute base--God consciousness. God is necessary. He stands at the center of one's motives, decisions and acts. In other words, the Christian Ethic is based upon man's individual and personal relationship with his God as revealed in Christ.

In the practice of law, Mr. Larson said, most ethical problems were in the area of small things such as the "white lie." They were rarely in the areas of conduct where misconduct might lead to disciplinary action by the Bar. Some problems that confronted him were to resist the temptation to exaggerate the strength of a client's case so as to collect a retainer, to convince a client not to conceal assets when filing for bankruptcy and to try to treat other lawyers fairly. A less absolute standard than the Christian Ethic would have made his decisions even more difficult.

FRESHMAN BRIEFS: The football team made its final appearance of the season at Ann Arbor last Saturday. This week we'd like to honor those fans who also made their last appearance of the season: First of all, the Heckler of the Year Award goes to Myron Quoit. Myron is best remembered for his continual unsportsmanlike gestures to the referees during the MSU game, climaxed by two FBI agents carrying him away for security-clearance investigation. Next, the Mr. School Spirit Plaque goes to Ezra Schnapps who

panicked at the site of a Navy breakaway, jumped out of his seat in row 72, section 30, and confronted the ball carrier on the 5 yd. line, resulting in two stretcher bearers carrying him away.

The Wolverine Free Enterprise Certificate and one year's subscription to Res Gestae at half-price this year goes to Oscar DoGood. He not only sold line-ups identifying each player by number but also sold programs identifying each U-M play before it was called by the way the team broke from the huddle. Oscar's biggest profits came the afternoon of the Purdue game, resulting in the entire U-M team carrying him away afterwards. This award is presented posthumously to Mrs. DoGood, his mother. Each year the university awards a live wolverine to the person making the most significant contribution to half-time activity. This season's wolverine is presented to Maud Frickert, 86 years old, U-M's oldest cheerleader, and still able to take her turn on the trampoline. That's not so great, you say? Try it on a wheelchair sometime. The Better World Through Better Understanding Award goes to Byron Koslofsky of the U-M band, who is the rookie tuba player using the "greasy kid's stuff" in this month's Vitalis commercial.

The Card Section receives the Nice Try plaque for successfully sending personal messages over national TV, resulting in the FCC carrying the whole section away. A monetary award, the You-Can't-Do-It-Alone Check, is presented to Referee Charlie "Quick-Whistle" Wheeler for services rendered. And, finally, last but not least, the university's highest sports award, the Fred Schmedlapp "Bon Vivant" Trophy, is retained by last year's winner--Fred Schmedlapp. He was "passed up" 85 rows over the heads of frolicking fans 13 times in one game. Unfortunately for Fred, there actually were only 84 rows. We wish to congratulate all the winners and thank all the losers who made them possible.

- Steve Petix and Art Dulemba.

EDITORS WASTEBASKET: Professor George recently had an article entitled "Juveniles and the Police" published in the Michigan State Bar Journal. He has also been reappointed to the Executive Committee of the Center for Japanese Studies for the current academic year; and is a director of the newly organized Japanese American Society for Legal Studies....Professor Joiner recently lectured in Kalamazoo and Detroit before the I.C.L.E. seminar on Michigan Civil Procedure Before Trial....Professor Polasky attended the meeting of Consultants, American Law Institute Federal Gift and Estate Tax Project in New York City in September. More recently, he spoke to the Toledo Estate Planning Council on "Estate Planning--How to Use the Marital Deduction Now."... Dean Smith is the author of "The Role of the Modern Law School" which appeared in the recent issue of the Florida Bar Journal.

GRIDIRON PIX:

Michigan over Iowa
Minnesota over Purdue
Illinois over Wisconsin
Nebraska over Okla. State
Alabama over Georgia Tech
Tennessee over Mississippi
Pittsburgh over Army
California over Utah
Oregon State over Stanford
Harvard over Brown
Dartmouth over Cornell

Notre Dame over Michigan State
Ohio State over Northwestern
Princeton over Yale
Oregon over Indiana
Georgia over Auburn
Missouri over Oklahoma
Boston College over Miami (Fla.)
Kansas over Colorado
Washington over U.C.L.A.
Columbia over Penn
Burnt Ranch over Arboga Tech.

MISCELLANEOUS: The Board of Directors announces that Lewis D. Gilbert will speak at the Club on Wednesday, Nov. 18, at 6:30, in the lounge. Mr. Gilbert is considered to be America's leading stockholder, having attended over 2000 stockholders meetings in his life. He will speak on "Democracy for Corporate Shareholders."...Don't forget the Thanksgiving dance being presented by the Lawyers Club on Saturday, Nov. 21, 9:00-1:00. The dance will be held in the Club and dress is semi-formal. Music by "Mike Lynch's Bunch."...A Peace Corps representative will be at the Law School to speak to interested students on Thursday, the 19th, in the lounge at 4:30....The PAD pictures for the Quad will be taken on Wednesday, Nov. 18, at 12:45, in room 118.

AT THE FLICKS: Campus: "Becket"

Michigan: "Send Me No Flowers"

State: "Pajama Party"

Cinema Guild: Fri.- experimental films; Sat.- "Cleo from 5 to 7"